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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/589,589	06/08/2000	Katherine A. High	018743/0276324	1864

7590 02/03/2003

Robert M. Bedgood Ph.D
PILLSBURY WINTHROP LLP
50 Fremont Street
San Francisco, CA 94105

EXAMINER

WHITEMAN, BRIAN A

ART UNIT	PAPER NUMBER
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1635

DATE MAILED: 02/03/2003

20

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/589,589

Applicant(s)

HIGH ET AL.

Examiner

Brian Whiteman

Art Unit

1635

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 10 December 2002 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. **ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).**

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☒ A Notice of Appeal was filed on 10 December 2002. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☒ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☒ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 1-10 and 12-29.

Claim(s) withdrawn from consideration: 11.

8. ☒ The proposed drawing correction filed on 10 December 2002 is a) ☒ approved or b) ☐ disapproved by the Examiner.

9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.

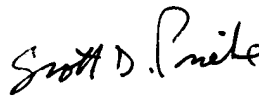
10. ☐ Other: _____

Continuation of 2. NOTE: The additional proposed claims would require a new search because these claims encompass species that did not have to be searched in either the Non-Final or Final rejection. New claims 30, 33, and 35 would be rejected under 112 second paragraph for lack of antecedent basis for the term "mammal".

It is not apparent what claims are proposed because the marked-up copy of the proposed claims do not coincide with the clean claim sheets. Claims 9 and 11 are cancelled in the marked-up version, but proposed in the clean version. In addition, claim 11 is missing from the marked-up version. Claims 13 and 14 are independent claims in the marked-up version and dependent claims in the clean version. Proposed claims 15, 16, 22, 24-25 do not correspond to claims 15, 16, 22, 24-25 in the clean version. The numbering on the clean version has two numbers on the left side of the proposed claims (see pages 3 and 4 of clean claim sheets).

If the clean version is the correct version then a new 112 second paragraph rejection for proposed claim 13 would be required because claim 13 depends on itself. Claim 32 does not further limit claim 31 because claim 31 depends on a claim that already list the species set forth in claim 32. Claim 31 is broader than the claim (claim 14) from which it depends because claim 31 cites a genus of blood coagulation protein and claim 14 list only 4 blood coagulation proteins.

Continuation of 5. does NOT place the application in condition for allowance because: The arguments are moot because they are based on the proposed claims that were not entered and the affidavit that was not considered.


SCOTT D. PRIEBE, PH.D
PRIMARY EXAMINER